

1 Ivan Ishkov
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4 Contact phone: (415) 681-7061
5 e-mail: ivanishkov@yahoo.com

6 Plaintiff

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10
11 SAN FRANCISCO DIVISION

12 Ivan Ishkov,
13 Plaintiff

14 vs.

15 Michael Chertoff,
16 Secretary of the Department of Homeland Security;
17 Emilio T. Gonzalez,
18 Director of the United States Citizenship and
Immigration Services;
David N. Still,
San Francisco District Director, United States
Citizenship and Immigration Services;
Robert S. Mueller, III,
Director of the Federal Bureau of Investigation

19 Defendants.

20 Case No.: C 07 3422

21 PETITION FOR HEARING ON
NATURALIZATION APPLICATION
PURSUANT TO 8 U.S.C. §1447(b)

22 USCIS Case No.: A 047 834 610

23 INTRODUCTION

- 24 1. This action is brought for a hearing to decide Plaintiff's naturalization application due to
Defendants' failure to adjudicate the application within 120 days after the first examination
in violation of the Immigration and Nationality Act (INA) §336(b) and 8 U.S.C. §1447(b).

JURISDICTION

- 2 Jurisdiction in this case is proper under the INA §336(b) and 8 U.S.C. §1447(b). Relief is
3 requested pursuant to said statutes.

VENUE

- 5 Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a
6 hearing on the matter in the District where Plaintiff resides.

INTRADISTRICT ASSIGNMENT

- 9 The intradistrict assignment is proper, pursuant to Civil L.R. 3-2(c), because Plaintiff resides
10 in San Francisco and, accordingly, his naturalization application is considered by the USCIS
11 San Francisco local field office.

PARTIES

- 13 Plaintiff Ivan Ishkov is a lawful permanent resident in the United States. Plaintiff applied for
14 naturalization to the United States and was interviewed for his naturalization application on
15 April 27, 2006. Defendants have failed to make a decision on the application within 120 days
16 after the examination.
- 17 Defendant Michael Chertoff is the Secretary of the Department of Homeland Security
18 (DHS), and this action is brought against him in his official capacity. He is generally charged
19 with enforcement of the Immigration and Nationality Act, and is further authorized to
20 delegate such powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a);
21 8 C.F.R. §2.1.
- 22 Defendant Emilio T. Gonzalez is the Director of the United States Citizenship and
23 Immigration Services (USCIS), an agency within the DHS to whom the Secretary's authority
24 has in part been delegated and is subject to the Secretary's supervision. This action is brought
25 against him in his official capacity. Defendant Emilio T. Gonzalez is generally charged with
26 the overall administration of benefits and immigration services. 8 C.F.R. §100.2(a).
- 27 Defendant David N. Still, San Francisco District Director, is an official of the USCIS
28 generally charged with supervisory authority over all operations of the USCIS within his

District with certain specific exceptions not relevant here. 8 C.F.R. §100.2(d)(2)(ii). This action is brought against him in his official capacity. As it will be shown, Defendant David N. Still is the official with whom Plaintiff's naturalization application remains pending.

9. Defendant Robert S. Mueller, III, is the Director of the Federal Bureau of Investigations (FBI), the law enforcement agency that conducts security clearances for other U.S. government agencies, in particular for the USCIS. This action is brought against him in his official capacity. As it will be shown, Defendant Robert S. Mueller, III, has failed to complete the security clearances on Plaintiff's case.

CAUSE OF ACTION

11. Plaintiff is a lawful permanent resident (A# 047 834 610) of the United States since 2001. Plaintiff filed an N-400, Application for Naturalization, with the USCIS (Exhibit A) and was interviewed at the USCIS San Francisco field office on April 27, 2006 (Exhibit B).

12. Based on the letter dated on April 13, 2007 (Exhibit C), Plaintiff was informed by the USCIS that his Application of Naturalization is pending for the completion of all necessary background checks.

13. Plaintiff's application for naturalization has remained unadjudicated for more than 17 months from the date of interview.

14. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements.

15. Defendants, in violation of 8 U.S.C. §1446, have failed to make a determination on Plaintiff's naturalization application within 120-day period after the date of examination.

PRAYER FOR RELIEF

16. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully
prays that Defendants be cited to appear herein and that, upon due consideration, the Court
enter an order adjudicating the naturalization application.

17. In the alternative, the Court may remand requiring Defendants to immediately adjudicate Plaintiff's application for naturalization.

18. In addition, Plaintiff requests an award of the costs for this suit under the Equal Access to Justice Act, 28 U.S.C. §2412, and such other relief at law and in equity as justice may require.

Dated: October 20, 2007

Respectfully submitted,

Yunnan

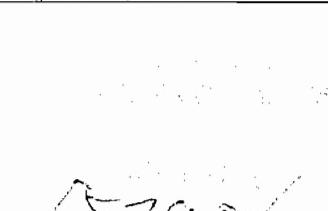
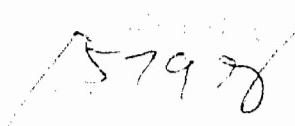
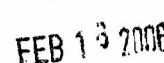
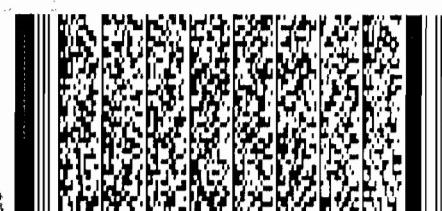
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2 **LIST OF EXHIBITS**
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- A. USCIS receipt on the N-400 application, dated 2/1/2006
- B. Naturalization Interview Results dated 4/27/2006
- C. Inquiry response regarding status dated 4/13/2007



Fingerprint Notification			NOTICE DATE February 01, 2006
CASE TYPE N400 Application For Naturalization			INS A# A 047 834 610
APPLICATION NUMBER WSC*001437748	RECEIVED DATE January 17, 2006	PRIORITY DATE January 17, 2006	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS IVAN ISHKOV 255 WOODSIDE AVE 905 SAN FRANCISCO CA 94127			
   			
<p>To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.</p>			
APPLICATION SUPPORT CENTER INS SAN FRANCISCO 250 BROADWAY STREET SAN FRANCISCO CA 94111	DATE AND TIME OF APPOINTMENT 02/16/2006 10:00 AM		
<p>WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:</p> <p>1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.</p>			
<p>PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.</p>			
<p style="text-align: center;"><i>Exhibit A</i></p>			
<p>REQUEST FOR RESCHEDULING</p>			
<p>Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon <input type="checkbox"/> Saturday afternoon</p>			
<p>INS cannot guarantee the day preferred, but will do so to the extent possible.</p>			
<p>Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:</p>			
<p>INS SAN FRANCISCO 250 BROADWAY STREET SAN FRANCISCO CA 94111</p>			
<p>If you have any questions regarding this notice, please call 1-800-375-5283.</p>			
<p>APPLICANT COPY</p>			
<p>APPLICATION NUMBER WSC*001437748</p>			
<p>WARNING!</p>			
<p><i>Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.</i></p>			

U.S. Department of Justice
Immigration and Naturalization Service

B
Exhibit
Naturalization Interview Results

A# A 047 834 610

On APR 27 2007, you were interviewed by INS officer Wyn.

- You passed the tests of English and U.S. history and government.
- You passed the test of U.S. history and government and the English language requirement was waived.
- The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- You will be given another opportunity to be tested on your ability to _____ speak / _____ read / _____ write English.
- You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- Please follow the instructions on the Form N-14.
- INS will send you a written decision about your application.
- You did not pass the second and final test of your _____ English ability / _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) Congratulations! Your application has been recommended for approval. At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) A decision cannot yet be made about your application.

- It is very important that you:**
- ✓ Notify INS if you change your address.
 - ✓ Come to any scheduled interview.
 - ✓ Submit all requested documents.
 - ✓ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
 - ✓ Go to any oath ceremony that you are scheduled to attend.
 - ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.

**PENDING FOR
SECURITY CHECKS**

U.S. Department of Homeland Security
P.O. Box 30111
Laguna Niguel, CA 92607-0111



**U.S. Citizenship
and Immigration
Services**

April 13, 2007

IVAN ISHKOV
255 WOODSIDE # 905
SAN FRANCISCO, CA. 94127

Exhibit C

Re: A 47-834-610 – Naturalization Status Inquiry

Dear Applicant:

In your inquiry with USCIS, you requested the status of your pending N-400 Application for Naturalization. A decision cannot be made about your application yet because your background investigation is still pending. Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. Once your background check is completed your local District Office will send you a written decision about your application and, if applicable, an appointment letter for the oath ceremony. We cannot estimate the duration of each background investigation. However, if you do not receive a notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

Thank you very much for your cooperation.

Please call the National Customer Service Center toll free number at 1- (800) 375-5283 or visit our website at: <http://www.USCIS.GOV> for additional information. Thank you.